

Message Text

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71

ACTION AF-08

INFO OCT-01 ISO-00 EB-07 L-03 TRSE-00 COME-00 /019 W

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R 201356Z AUG 76

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 1911

LIMITED OFFICIAL USE NAIROBI 8858

E.O. 11652: N/A

TAGS: EINV, KE

SUBJECT: SAUL CLAIM

REF: (A) STATE 204687, (B) NAIROBI 8224

1. REF A SUGGESTS THAT EMBASSY ENCOURAGE BOTH SIDES CONTINUE NEGOTIATIONS, AND THAT EMBASSY FACILITATE NEGOTIATIONS.

2. EMBASSY REMAINS RELUCTANT TAKE SUCH STEPS. SAUL'S LAWYERS HAVE NO COMMUNICATIONS PROBLEM WITH GOK. FOR EMBASSY TO "ENCOURAGE" FURTHER NEGOTIATIONS AFTER GOK HAS MADE OFFER WOULD BE TO IMPLY USG CONSIDERS GOK'S OFFER INSUFFICIENT. GOK STATED CLEARLY THAT THIS WAS BEST OFFER AND THAT GOK WILL NOT CHANGE IT.

3. ANY MOVE, EVEN TACIT, ON OUR PART TO SUPPORT SAUL'S VIEWPOINT WOULD BE CONSIDERED TENDENTIOUS AND, PROBABLY, AN IMPUGNING KENYAN JUSTICE.

4. SAUL HAS NOT EXPLORED ULTIMATE AVENUE OF KENYAN JUSTICE. AFTER TWO YEARS AT LOGGERHEADS WITH KENYAN EXECUTIVE DESPITE VERY CONSIDERABLE ASSISTANCE FROM USG, WE BELIEVE IT IS TIME HE DID. AS DEPT IS AWARE, KENYAN CONSTITUTION PROVIDES FOR APPEAL TO HIGH COURT BY SAUL FOR DETERMINATION OF AMOUNT OF ANY COMPENSATION TO WHICH HE IS ENTITLED (CHAPTER V, SECTION 75 (2) (A AND B). IT ALSO PROVIDES FOR OBTAINING WEIGHT OF COURT'S DECISION TO ENSURE PROMPTNESS OF PAYMENT AND

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REMITTANCE ABROAD.

5. TO SUMMARIZE EMBASSY'S OPINION, GOK HAS STATED THAT TO GO BEYOND ITS PRESENT OFFER WOULD BE UNJUST IN LIGHT OF TOTAL CIRCUMSTANCES THIS CASE. USG CANNOT INTERVENE FURTHER WITHOUT AN IMPLIED ESPOUSAL OF SAUL'S VIEW THAT HE IS ENTITLED TO MORE. HE IS AT LIBERTY TO TEST HIS CLAIM IN HIGH COURT. IN OUR OPINION, THAT COURSE WOULD NOT PROVIDE BEST SOLUTION FOR ALL CONCERNED. PLEASE COMMENT.

DECON 8/20/77.

MARSHALL

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